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09/864,537	05/23/2001	Robert Carl Barrett	AM9-97-133-US2	4656

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DANIEL E. JOHNSON  
IBM CORPORATION, ALMADEN RESEARCH CENTER  
INTELLECTUAL PROPERTY LAW DEPT. C4TA/J2B  
650 HARRY ROAD  
SAN JOSE, CA 95120-6099

EXAMINER

CORRIELUS, JEAN M

ART UNIT	PAPER NUMBER
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2172

DATE MAILED: 10/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/864,537

Applicant(s)

BARRETT ET AL.

Examiner

Jean M Corrielus

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 50-60 and 69-83 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 50-60 and 69-83 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## **DETAILED ACTION**

1. This office action is in response to the amendment filed on September 2, 2003, which claims 51-60 and 69-83 are presented for further examination.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 51-60 and 69-83 have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment.

### ***Drawings***

3. Applicants are required to furnish the formal drawings in response this office action. No new matter may be introduced in the required drawing. Failure to timely submit a drawing will result in **ABANDONMENT** of the application.

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

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1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 51-60 and 69-83 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of the U.S. Patent No. 6,490,584. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons: Claim 1 of the instant application substantially recites the limitations of claim 1 of the cited U.S. patent. The claim merely omits certain the underlined limitations and replaces the bolded limitations as shown in comparison table 1 below.

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Application Claim 51	US Patent Claim 1
<p>51. A method for pushing information to a client in an information processing system, the method comprising the step of:</p> <p>Providing a platform implementing the information processing system and a system client for practicing the method;</p> <p>gathering facts concerning user activity;</p> <p>forming the gathered facts into facts nets;</p> <p>storing the facts nets within the platform-implemented system;</p> <p>identifying fact nets defining evolving probable user interest; and pushing selected facts from the identified facts nets to the system client.</p>	<p>1. A method for pushing information to a client in an information processing system, the method comprising the step of:</p> <p>Providing a platform implementing the information processing system and a system client for practicing the method;</p> <p>gathering facts concerning user activity;</p> <p>forming the gathered facts into facts nets;</p> <p>storing the fact nets within the platform-implemented system;</p> <p>identifying the facts nets defining evolving probable user interest;</p> <p>pushing selected facts from the identified facts nets to the system client; and <u>defining an extended environment with which the user does not interact, and wherein the gathering step includes the steps of gathering facts corresponding to events in user activity and in the extended environment.</u></p>

Table 1

It would have been obvious to one of ordinary skill in the art of data processing at the time the invention was made to modify the cited steps as indicated claim 1 of the US Patent since the omission and addition of the cited limitations would have not changed the process according to which the method of pushing information to a client in an information processing system. Therefore, the ordinary skilled artisan would have been also motivated to modify claim 1 of the cited US patent by deleting the use of defining an extended environment with which the user does not interact, and wherein the gathering step includes the steps of gathering facts corresponding to events in user activity and in the extended environment. The cited omitting elements would not interfere with the functionality of the steps previously claimed and would perform the same function. In re Karlson, 136 USPQ 184 (CCPA 1963).

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The dependent claims 52-60 of the instant application are rejected for fully incorporating the errors of their respective base claims by dependency.

Application Claim 69	US Patent claim 14
69. A system for pushing information to a client in an information processing system, the system comprising the step of: means for gathering facts concerning user activity and for forming the gathered facts into facts nets; means for identifying fact nets defining evolving probable user interests; means for pushing selected facts from the identified fact nets to a system client; and single platform means implementing the system and the client.	14.A system for pushing information to a client in an information processing system, the system comprising the step of: means for gathering facts concerning user activity and for forming the gathered facts into facts nets; means for identifying fact nets defining evolving probable user interests; means for pushing selected facts from the identified fact nets to a system client; single platform means implementing the system and the client; <u>and means for defining a fact data structure, for defining a linkage between fact data structures, for defining a fact net as a data structure incorporating at least one fact data structure, and means for linking multiple instances of fact data structures.</u>

Table 2

It would have been obvious to one of ordinary skill in the art of data processing at the time the invention was made to modify the cited steps as indicated claim 14 of the US Patent since the omission and addition of the cited limitations would have not changed the process according to which the method of pushing information to a client in an information processing system. Therefore, the ordinary skilled artisan would have been also motivated to modify claim 14 of the cited US patent by deleting the means for defining a fact data structure, for defining a linkage between fact data structures, for defining a fact net as a data structure incorporating at least one fact data structure, and means for linking multiple instances of fact data structures. The cited substitute elements would not interfere with the functionality of the steps

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previously claimed and would perform the same function. In re Karlson, 136 USPQ 184 (CCPA 1963).

The dependent claims 70-78 are rejected for fully incorporating the errors of their respective base claims by dependency.

Application Claim 79	US Patent claim 11
<p>79. A system for monitoring events in an environment, for making inferences about the monitored events, and for reporting selected inferences to a client, the system comprising the step of:</p> <p>at least one observer agent for monitoring a selected event of an environment, and for creating a primitive fact which incorporates a status of the monitored event;</p> <p>a dynamic user model for storing created facts, the stored facts being accessible by the agents; and</p> <p>at least one reporter agent for examining created facts, for defining and identifying reportable facts, and for delivering a copy of the reportable facts to a receiving client.</p>	<p>11. A system for monitoring events in an environment, for making inferences about the monitored events, and for reporting selected inferences to a client, the system comprising the step of:</p> <p>at least one observer agent for monitoring a selected event of an environment, and for creating a primitive fact which incorporates a status of the monitored event;</p> <p>a dynamic user model for storing created facts, the stored facts being accessible by the agents; and</p> <p>at least one reporter agent for examining created facts, for defining and identifying reportable facts, and for delivering a copy of the reportable facts to a receiving client; <u>the agents, the dynamic user model, and the client being implemented within a single platform; and at least one fact deriving agent for examining all existing facts, for creating new facts from one or more existing facts, and for linking each new facts to a parent facts of the new fact, forming fact nets of linked facts, and further including all fact nets being stored in the dynamic user model.</u></p>

Table 3

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It would have been obvious to one of ordinary skill in the art of data processing at the time the invention was made to modify the cited steps as indicated claim 14 of the US Patent since the omission and addition of the cited limitations would have not changed the process according to which the system for monitoring events in an environment, for making inferences about the monitored events, and for reporting selected inference to a client. Therefore, the ordinary skilled artisan would have been also motivated to modify claim 14 of the cited US patent by deleting the use wherein the agents, the dynamic user model, and the client being implemented within a single platform; and at least one fact deriving agent for examining all existing facts, for creating new facts from one or more existing facts, and for linking each new facts to a parent facts of the new fact, forming fact nets of linked facts, and further including all fact nets being stored in the dynamic user model. The cited substitute elements would not interfere with the functionality of the steps previously claimed and would perform the same function. In re Karlson, 136 USPQ 184 (CCPA 1963).

The dependent claims 80-83 are rejected for fully incorporating the errors of their respective base claims by dependency.

***Claim Rejections - 35 U.S.C. § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has



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fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 51 and 79-83 are rejected under 35 U.S.C. 102(e) as being anticipated by Hunt et al. US Patent No. 5,893,091.

As claims 51:

Hunt et al disclose a server push model wherein the server pushes information over a communication channel in which it can be accessed by multiple clients. The client pull model is a user directing browser to a particular URL, where a server responds by transferring the HTML associated with the specified URL via HTTP. This implication explicitly shows how the user's client application the browser can be use to pull information off the server (col.3; line 50-col.4, lines 5), which is also described to the recited "providing a platform implementing the information processing system and system client for practicing the method". Hunt discloses the use of delivering a user notifications of new information posted by a participating content providers from the server push model (col.4, lines 44-46). It is important to note that users can monitor any number event of timely information server channel with client software that runs outside of a web browser. Hunt discloses the claimed

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“gathering fact concerning user activity” as when an alert is received that meets a predetermined set of notification criteria the client software will execute a program associate with the alert (col.4, lines 44-66 ); “forming the gathered facts into facts nets” (col.6, lines 47-58); “storing the fact nets defining evolving probable user interest” (col.6, lines 34-65; col.11, lines 18-23; col.15, line 62-col.16, line 3); “identifying fact nets defining evolving probable user interests (col.4, lines 14-30); and “pushing selected facts nets from the identified facts nets, and incorporating the new facts into the fact nets” (col.3, line 43-col.4, line 33).

As to claim 79, Hunt et al disclose the claimed “at least one observer for monitoring a selected event of an environment, and for creating a primitive facts which incorporates a status of the monitored event” (col.3, line 50-col.4, lines 5 and col.4, lines 44-46); “a dynamic user model for storing created facts, the stored facts being accessible by the agents” (col.6, lines 34-65; col.11, lines 18-23); and “at least one reporter agent for examining created facts, for defining, identifying reportable facts, and delivering a copy of the reportable facts to a receiving client”(col.6, lines 47-58; col.15, line 62-col.16, line 3).

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As to claim 80:

Hunt et al. disclose the step wherein the at least one observer agent, and the at least one reporter agent each defines an independent, concurrent programming (col.5, line 26-col.6, line 60).

As to claim 81:

Hunt et al. disclose the step wherein the at least one reporter thread is triggered by the creation of each new primitive fact, whereby delivery of reportable facts to a client is triggered by occurrence of monitoring events (col.5, line 26-col.7, line 6).

As to claim 82:

Hunt et al. disclose the step wherein the at least one fact deriving agent for examining all existing facts, for creating new facts from one or more existing facts, and for linking each new fact to the parent fact of the new fact, forming fact nets of linked facts (col.8, line 6-col.10, lines 15).

As to claim 83:

Hunt et al. disclose the step of including a fact pruning agent defining a no-longer valid fact and a descendant of a fact, the fact pruning agent eliminating each no longer valid fact and all its descendants from the facts nets (col.11, line 50-col.12, line 25).

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***Claim Rejections - 35 U.S.C. § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 52-60 and 69-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt et al US Patent No. 5,893,091 in view of Spurgeon US Patent No. 5,890,129.

As to claims 52-53:

Hunt et al disclose substantially the invention as claimed, except for deriving new facts from the facts within the fact nets, and incorporating the new facts into the facts nets.

Spurgeon discloses the step of deriving new facts from the facts within the fact nets, and incorporating the new facts into the facts nets (col.8, lines 42-50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teaching of the cited

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references because the server push model as disclosed by Spurgeon, would allow Hunt et al's system the enhanced capability of providing user with custom data from new service.

As to claim 54:

Spurgeon discloses the step of executing the previous steps concurrently as independent threads (col.9, lines 8-18). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teaching of the cited references because the server push model as disclosed by Spurgeon, would allow Hunt et al's system the enhanced capability of providing user with custom data from new service.

As to claim 55:

Hunt et al. disclose the step of including a fact pruning agent defining a no-longer valid fact and a descendant of a fact, the fact pruning agent eliminating each no longer valid fact and all its descendants from the facts nets (col.11, line 50-col.12, line 25).

As to claim 56:

Hunt et al. disclose the step of triggering the deriving and the pushing steps upon the formation of the fact nets (col.3, line 49-col.4, line 33).

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As to claim 57:

Spurgeon discloses the step of wherein the triggering occurs upon the derivation of new facts, thereby defining an iterative process of re-evaluation and reporting (col.8, line 42-col.9, line 56). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teaching of the cited references because the server push model as disclosed by Spurgeon, would allow Hunt et al's system the enhanced capability of providing user with custom data from new service.

As to claim 58:

Spurgeon discloses the step of deriving every possible fact that can be derived each time a new fact is added (col.8, lines 42-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teaching of the cited references because the server push model as disclosed by Spurgeon, would allow Hunt et al's system the enhanced capability of providing user with custom data from new service.

As to claims 59-60:

Hunt et al. disclose the step of defining an extended environment with which the user does not interact, and wherein the gathering step includes the steps of defining facts corresponding to events in user activity and in the extended environment, monitoring the events, and creating corresponding facts (col.5, line 5-col.6, line 60).

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As to claims 69-78

The limitations of claims 70-78 have been noted in the rejection of claims 51-60 above. They are, therefore, rejected under the same rationale.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.(See PTO 892)

Bapat; Dynamic translation of network management primitives to queries to a database; US Patent No. 5,317,742; issued 5/31/94.

Any inquiry concerning this communication or early communication from the Examiner should be directed to **Jean M. Corrielus** whose telephone number is (703) 306-3035. The Examiner can normally be reached on the weekdays from 7:00am to 5:30pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, **Kim Vu**, can be reached on (703)305-4393

Any response to this action should be mailed to:

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Serial Number: 09/864,537:

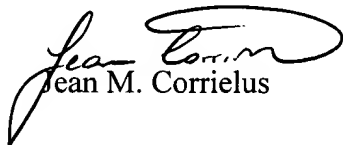
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**or faxed to:**

**(703) 746-7236**, (for formal communications intended for entry) **Or:**

**(703)746-7240** (for informal or draft communications, please label "PROPOSED" or "DRAFT") Hand-delivered responses should be brought to **Crystal Park II, 2021 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).**



Jean M. Corrielus

Patent Examiner

October 17, 2003